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11/28/08

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

In the Matter of the Seizure of
(Address or brief description of property or premises to be seized)

WELLS FARGO BANK
Account: 3572585739
The Funds on Deposit up to
\$5,000.00

APPLICATION AND AFFIDAVIT
PDC **FOR SEIZURE WARRANT**
DEPUTY

CASE NUMBER: '08 MJ 0514

I, Lisa M. Tracy, being duly sworn depose and say:

I am a Senior Special Agent with United States Immigration and Customs Enforcement (ICE),
Official Title

and I have reason to believe that due to a violation which occurred in the Southern District of California, that there is now certain forfeitable property, namely:

THE FUNDS ON DEPOSIT, Limited to \$5,000.00 from WELLS FARGO BANK
Account: 3572585739

which property is traceable to personal check number #1004, dated November 10, 2007, written for the amount of \$5,000.00, drawn on WELLS FARGO BANK. Bank account number: 3572585739, which was transported into the United States, in bearer form, which transportation was not reported, in violation of Title 31 United States Code, Section 5316 and 5332. The United States Government seeks forfeiture of the funds traceable to personal check number #1004, pursuant to Title 31, United States Code, Section 5317. The facts to support a finding of Probable Cause are as follows:

SEE ATTACHED AFFIDAVIT, WHICH IS HEREBY INCORPORATED BY REFERENCE AND MADE A PART HEREOF.

Sworn to before me, and subscribed in my presence

2/21/08, 1:13 PM at San Diego, California
Date/Time issued

Signature of Affiant

Lisa M. Tracy

Honorable WILLIAM MCCURINE, JR.

United States Magistrate Judge
Name and Title of Judicial Officer

W McCurine Jr.

Signature of Judicial Officer

ROSA

AFFIDAVIT IN SUPPORT OF AN APPLICATION
FOR SEIZURE WARRANT

STATE OF CALIFORNIA)

COUNTY OF SAN DIEGO)

I, Lisa M. Tracy, Senior Special Agent (SSA), United States Immigration and Customs Enforcement (ICE), being duly sworn, depose and state:

A. EXPERIENCE AND TRAINING

1. I have over 14 years experience as a federal law enforcement officer. I have been a Special Agent for 12 years, first with the Immigration and Naturalization Service, and then with Immigration and Customs Enforcement. During my time in service, I have investigated numerous border crimes of varying complexity. I have been assigned to Financial Investigations since May of 2004.

2. Throughout my law enforcement career, I have participated in and or executed numerous searches, seizures, and arrests. I have also applied for warrants to conduct searches, seizures, and arrests. I am familiar with the enforcement of laws relating to Immigration and Customs violations, money laundering, and asset forfeiture.

1 **B. PROPERTY TO BE SEIZED**

2 3. This affidavit is made in support of the application
3 for seizure warrants for the following assets:

4
5 **Funds on Deposit in BANK OF AMERICA Account**

6 **Number: 09672 67676, up to \$240,000.000; BANK**
7 **OF AMERICA, Lincoln-Tustin, 2680 N Tustin**
8 **Ave., Orange, CA; Phone 714-533-4470; Account**
9 **Holder: Yubran MESLE;.**

10
11 **Funds on Deposit in WELLS FARGO Account Number: 3572585739**
12 **up to \$5,000.00; WELLS FARGO Bank, N. A.; California,;**
13 **Account Holder: Yubran S MESLE.**

14
15 **C. STATUTORY BASIS FOR SEIZURE AND FORFEITURE**

16 4. As set forth below, there is probable cause to believe
17 that on or about November 8, 2007, Ata DIGHLAWI failed to report
18 the transportation of Monetary Instruments, in bearer form, in
19 excess of \$10,000.00 into the United States, from Mexico, in
20 violation of Title 31, Sections 5316 and 5332. There is also
21 probable cause to believe, the funds on deposit in BANK OF
22 AMERICA Bank account: 09672 67676, up to \$240,000.00, and the
23 funds on deposit in WELLS FARGO Bank account: 3572585739, up to
24 \$5,000.00, are traceable to the monetary instruments seized by
25 the United States government for violation of Title 31 of the

1 U.S.C. Sections 5316 and 5332. The government seeks to civilly
2 forfeit the funds traceable to the monetary instruments
3 described herein in paragraphs 13 and 14, pursuant to Title 31
4 United States Code, Section 5317.

5 4(a). Title 31, United States Code, Section 5316(a)
6 provides that a person shall file a report under Section 5316(b)
7 when the person transports, is about to transport, or has
8 transported monetary instruments of more than \$10,000.00 in U.S.
9 dollars at one time to a place in the United States from or
10 through a place outside the United States.

11 4(b). Title 31, United States Code, Section 5324
12 provides that no person shall, for the purpose of evading the
13 reporting requirements of section 5316, fail to file a report
14 required by section 5316 or cause or attempt to cause a person
15 to fail to file such a report. Section 5324(d) provides whoever
16 violates this section shall be fined in accordance with Title
17 18, United States Code, imprisoned for 5 years, or both.

18 4(c). The term "monetary instrument" is defined by the
19 Secretary of the Treasury. The definition is provided at 31 CFR
20 103.11. "Monetary Instruments" includes, currency, Traveler's
21 checks in any form, all negotiable instruments - including,
22 inter alia, personal checks, business checks, third party checks
23 - that are either in bearer form, endorsed without restriction,
24 made out to a fictitious payee, or otherwise in such form that
25 title thereto passes upon delivery. "Monetary Instruments" also

1 includes incomplete instruments - including, inter alia,
2 personal checks, business checks, third-party checks signed but
3 with the payee's name omitted.

4 5. Pursuant to 28 U.S.C. § 1355(b) and 18 U.S.C.
5 § 981(b)(3) (made effective under the Civil Asset Forfeiture
6 Reform Act of 2000), this Court may issue seizure warrants for
7 property located outside the district when acts or omissions
8 giving rise to forfeiture occurred in this district. Here, the
9 failure to report the transportation of a monetary instrument in
10 excess of \$10,000.00 into the United States, occurred within
11 this district. The subject property is located in the Central
12 District of California.

13
14 5(a). Title 18, United States Code, Section 981(b)(3)
15 provides, a seizure warrant may be issued pursuant to this
16 subsection by a judicial officer in any district in which a
17 forfeiture action against the property may be filed under Title
18 28, United States Code, Section 1355(b), and may be executed in
19 any district in which the property is found.

20 5(b). Title 28, United States Code Section 1355(b)(1)
21 provides a forfeiture action or proceeding may be brought in (A)
22 the district court for the district in which any of the acts or
23 omissions giving rise to the forfeiture occurred; or (B) any
24 other district where venue for the forfeiture action or
25

1 proceeding is specifically provided for in section 1395 of this
2 title or any other statute.

3 **D. BASIS FOR FACTS CONTAINED IN THIS AFFIDAVIT**

4 6. I make this affidavit based on oral and written
5 reports about this investigation that I have received from
6 federal agents of the Department of Homeland Security,
7 Immigration and Customs Enforcement (ICE) and Customs and Border
8 Protection(CBP).

9 7. Except where otherwise noted, the information set
10 forth in this affidavit has been provided to me directly or
11 indirectly by Special Agents of ICE and/or CBP. Unless
12 otherwise noted, wherever in this affidavit I assert that a
13 statement was made, the information was provided to me by
14 another law enforcement officer.

15 8. Because this affidavit is being submitted for the
16 limited purpose of securing seizure warrants for the deposited
17 funds traceable to monetary instruments seized by the United
18 States Government, I have not set forth each and every fact
19 learned during the course of this investigation. I have set
20 forth only the facts that I believe are necessary to establish
21 the foundation for the purpose requested above.

22 **E. FACTS AND CIRCUMSTANCES ESTABLISHING PROBABLE CAUSE**

23 9. On November 8, 2007, ICE Special Agent Glenn
24 MacDonald, an ICE agent assigned to the Financial Task Force,
25 was notified of a incident at the San Ysidro Port of Entry

1 involving the seizure of monetary instruments. On November 8,
2 2007, Agent MacDonald responded to the call, arrived at the San
3 Ysidro, California, Port of Entry, and determined the following:

4 10. On November 8, 2007, at approximately 8:30 pm, Ata
5 DIGHLAWI (driver) and Ahmad AYESH (passenger) applied for entry
6 at the San Ysidro, California, Port of Entry (POE) while in a
7 silver GMC Sierra (CAUS/8J51268). DIGHLAWI handed Customs and
8 Border Protection (CBP) Primary Officer Danilo CAYAS two
9 California driver's licenses and declared himself to be a U.S.
10 citizen. The passenger, AYESH, also claimed to be a U.S.
11 citizen. Officer Cayas received two negative Customs
12 declarations from DIGHWALI. Officer Cayas referred DIGHLAWI to
13 secondary inspection.
14

15 11. On November 8, 2007, at approximately 9:00 pm, CBP
16 Officer Sean Richardson was assigned to conduct the secondary
17 inspections at the San Ysidro, California Port of Entry. CBP
18 Officer Richardson inspected the silver GMC Sierra
19 (CAUS/8J51268) with the assistance of CBP Officer A. Inouye.
20 During his inspection, Officer Richardson discovered a grey
21 plastic bag in the center console that contained 29 credit
22 cards. Several of the credit cards had the same number but
23 different names associated with them.
24

25 12. Agents MacDonald and Dimeglio contacted several credit
card companies in relation to the 29 credit cards found in the

1 center console. Some of the credit card issuing companies
2 requested that the cards be returned to them.

3 13. While conducting secondary inspection, CBP Officer
4 Inouye also discovered a receipt from Western Union regarding
5 money that was sent to Pakistan.

6 14. Ata DIGHLAWI (driver) and Ahmad AYESH (passenger) were
7 also in possession of various bank deposit slips and receipts,
8 several different individuals' biographical information,
9 including social security numbers, a default letter to Mahbuba
10 DIGHLAWI from CHASE, Arabic writing, various passwords,
11 telephone numbers and a list of things to do.

12 15. In my experience, it is unusual for people to carry
13 other peoples' biographical information, multiple credit cards
14 issued to other individuals, and or fictitious names, and it is
15 frequently a sign of illegal activities.

16 16. During the secondary inspection, Officer Inouye
17 discovered three negotiable monetary instruments in the center
18 console. All three instruments were signed personal checks, in
19 bearer form, written from the accounts of Yubran MESLE, later
20 determined to be the brother of the driver, Ata DIGHLAWI and the
21 uncle of the passenger, Ahmad AYESH. The Payee information is
22 blank for all three checks, and none of the checks were
23 endorsed. A description of the instruments is as follows:
24
25

1 17. Personal Check #730, dated November 28, 2007, for
2 \$240,000.00 drawn on Bank of America Account number: 09672
3 67676.

4 18. Personal check #1004, dated November 10, 2007, for
5 \$5,000.00 drawn on Wells Fargo account number: 3572585739.

6 19. Personal check, #1040, not dated, amount blank, drawn
7 on Bank of America account number: 24547 67190.

8 20. CBP officials determined that there were funds on
9 deposit in the bank accounts for personal checks #730 and #1004.
10 CBP Officials also determined that the account for personal
11 check #1040 was closed.
12

13 21. On November 9, 2007, at about 1:25 am, during a post-
14 Miranda interview, with ICE agents Glenn MacDonald and Joseph
15 Dimeglio, Ata DIGHLAWI claimed ownership of all three negotiable
16 instruments. Ata DIGHLAWI claimed that the money from the
17 checks was a payment to him (Ata DIGHLAWI) from his brother,
18 Yubran MESLE, the issuer of the checks. DIGHLAWI told agents
19 that he (DIGHLAWI) had loaned his brother, Yubran MESLE, some
20 money in the past, and that Yubran MESLE was in the process of
21 paying him back.

22 22. Ata DIGHLAWI stated that the payee information on the
23 checks was left blank, because sometimes he has trouble with the
24 banks, and he was not sure which name the bank would want him to
25 use.

1 23. Both Ata DIGHLAWI and his brother, Yubran MESLE, have
2 numerous aliases.

3 24. During the interview, Ata DIGHLAWI acknowledged to
4 agents that he has moved money out of the United States to
5 Pakistan on the behalf of other people in the past.

6 25. Ata DIGHLAWI stated that he and his nephew, Ahmad
7 AYESH, who both reside in Riverside County, California, had gone
8 to Mexico to look for a dentist. DIGHLAWI stated that they
9 entered Mexico, from the United States, around 3:30 pm, that
10 same day, November 8, 2007.

11 26. Ata DIGHLAWI stated that after driving around for a
12 few hours, they never found a dentist and decided to return to
13 the United States.

14 27. Records checks indicate that on or about March 23,
15 1997, Ata DIGHLAWI filed a Currency and Monetary Instrument
16 Report for \$64,500.00 in currency, and \$75,000.00 in the form of
17 a bearer instrument (total amount \$139,500.00), upon his arrival
18 to the United States at Houston, Texas, from Managua, Nicaragua.

19 28. Record checks indicate that on or about April 23,
20 1999, Ata DIGHLAWI a Currency Transaction Report was filed for a
21 cash deposit of \$17,200.00, which was made at Bank of America,
22 in Escondido, California.

23 29. Records checks indicate that Ata DIGHLAWI was
24 convicted of federal drug violations in February of 2002 and was
25

1 sentenced to 57 months prison. His brother, Yubran MESLE, pled
2 guilty in December of 2004 to possession of Amphetamines and was
3 sentenced to 46 months prison.

4
5 **F. KNOWLEDGE**

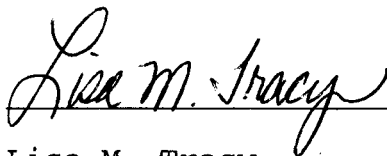
6 30. Based upon the facts presented above, there is
7 probable cause to believe that Ata DIGHLAWI is familiar with the
8 reporting requirements relating to large cash transactions in
9 excess of \$10,00.00. There is also probable cause to believe
10 that Ata DIGHLAWI is aware of the reporting requirements
11 relating to the reporting of Currency and Monetary Instruments
12 in excess of \$10,000.00 when entering or departing the United
13 States. There is also probable cause to believe that Ata
14 DIGHLAWI's failure to report the transportation of monetary
15 instruments in bearer form, in excess of \$10,000.00 was
16 intentional.

17
18 **G. CONCLUSION**

19 31. Based on the foregoing, there is probable cause to
20 believe that the funds on deposit in Bank of America Account
21 #09672 67676, held in the name of Yubran Mesle up to the amount
22 of \$240,000, is property traceable to one of the monetary
23 instruments involved in the November 8, 2007 violation of 31
24 U.S.C. §§ 5316 and 5324 is forfeitable pursuant to 31 U.S.C §
25 5317 (c) (2).

1 32. Based on the foregoing there is also probable cause to
2 believe that the funds on deposit in Wells Fargo Bank account
3 #3572585739, held in the name of Yubran S. Mesle up to the
4 amount of \$5000 is property traceable to one of the monetary
5 instruments involved in the November 8, 2007 violation of 31
6 U.S.C. §§ 5316 and 5324 and is forfeitable pursuant to 31 U.S.C.
7 §5317(c).

8 33. Therefore, the affiant requests seizure warrants for
9 the funds on deposit, up to \$240,000.00, at Bank of America,
10 account 09672 67676, and the funds on deposit, up to \$5,000.00,
11 at Wells Fargo Bank, account 3572585739.

12
13 

14 Lisa M. Tracy,
15 Senior Special Agent,
16 U.S. Immigration and Customs
Enforcement

17 Subscribed and sworn before me this 21st day of February, 2008.

18 

19 United States Magistrate Judge
20 Southern District of California
21
22
23
24
25